

### REMARKS

This amendment is in response to the Official Action mailed May 19, 2005.

In the present paper, claims 1, 11, 23, 26 and 28 have been amended, and claims 4, 5, 14 and 15 have been canceled. Claims 1-3, 6-13 and 16-29 are now presented for the Examiner's consideration in view of the following remarks:

#### *The Present Application*

Through the use of a hypertext network such as the Internet, a telemarketing system according to the present invention permits customers, agents and supervisors that are remote from one another to interact by performing telemarketing functions (e.g., call routing, providing a customer interface, providing supervisor administrative tools) that are implemented separately from media transport functions (e.g., switching hardware and software for carrying communications) (see Specification, p. 14, line 14 – p.15, line 5).

In each of the claims in the present application, a supervisor client is connected to a telemarketing server through the Internet. Because the Internet is a hypertext network, the supervisor is able to perform various functions from a location remote from the agents being supervised, remote from the telemarketing server system and remote from the customer. An agent is able to receive information about customers in addition to simply receiving an Internet call.

Each of the claims, as amended, further requires that the system transmits agent profile information to the supervisor (see present specification, page 26, line 4 – page 28, line 3). That

information enables the supervisor to make decisions on queue assignment, agent assignment and other supervisory tasks.

The Examiner has rejected claims 1, 4-11 and 14-22 under 35 U.S.C. § 102(e) as anticipated by U.S. Patent No. 6,064,730 to Ginsberg et al. (Ginsberg), and has rejected claims 2, 3, 12, 13 and 23-29 under 35 U.S.C. § 103(a) as unpatentable over Ginsberg.

### ***Discussion***

#### ***The Ginsberg Patent***

Ginsberg discloses a call center that gives the calling customers a visual representation of the organizational structure, thereby enabling the customer to route the call to an appropriate agent. The customer is presented with information on an agent's skills and on the queue size waiting to speak to the agent (col. 4, lines 42-49).

In addition to the described customer interface, the call center of Ginsberg also provides a feature for communicating with a manager (col. 6, lines 7-49). That feature may provide a display for the manager to use in making management decisions. To make those decisions, the manager is provided with, for example, the identity of customer and their queue status (col. 6, lines 27-33). The manager can thereby increase the number of sales agents in a particular area, generate alarms and assign specific agents to customer (col. 6, lines 33-39).

Ginsberg does not explicitly or implicitly disclose the call center transmitting agent profile information to the managers.

The Independent Claims Are Not Anticipated by or Obvious over Ginsberg

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." M.P.E.P. § 2131 (quoting *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987)).

To establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. M.P.E.P. § 2143.03 (citing *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974)).

Applicant submits that each of the independent claims in the present application require that agent profile information be sent to a supervisor or supervisor client. Applicant further submits that, because Ginsberg neither teaches nor suggests that agent profile information be sent to the manager, the claims in the present case are patentable over that reference.

In rejecting claims 5 and 15, the limitations of which have been incorporated into independent claims 1 and 11, respectively, the Examiner has asserted that:

To increase the number of sales agents or to assign a specific sales agent to a preferred customer, the supervisor will necessarily have to know which agents are active, their workload, a profile of which agent might specialize in which product.

Office Action 5/19/2005 at 3. Applicant respectfully disagrees with the Examiner's position for several reasons.

"To establish inherency, the extrinsic evidence 'must make clear that the missing descriptive matter is necessarily present in the thing described in the reference, and that it would be so recognized by persons of ordinary skill. Inherency, however, may not be established by probabilities or possibilities. The mere fact that a certain thing may result from a given set of

circumstances is not sufficient.’ ” M.P.E.P. § 2112 (IV) (quoting *In re Robertson*, 169 F.3d 743, 745, 49 USPQ2d 1949, 1950-51 (Fed. Cir. 1999) (emphasis added)).

Accepting for purposes of this argument that “the supervisor would necessarily have to know . . . a profile of which agent might specialize in which product,” as proposed by the Examiner, that assumption does not necessarily lead to the agent’s profile being accessed in the supervisor page of the supervisor client, as required by claims 1 and 11, or to the agent profile being provided by the telemarketing server system, as required by the other independent claims. Indeed, the agent profiles may be provided by another system, or, in the case of small organization, may already be known to the supervisor.

Furthermore, in *Ginsberg*, an agent’s expertise would not “necessarily” have to be known to assign the agent, as asserted by the Examiner. For example, agents might have universal expertise, or the products might be such that no particular expertise is required. A supervisor could then assign an agent without knowledge of an agent profile.

Because providing an agent profile through the telemarketer server system to a supervisor is not “necessarily present” in *Ginsberg*, Applicant submits that the independent claims in the present application are patentable over that reference. Applicant further submits that the dependent claims, which incorporate that limitation, are patentable for the same reasons.

#### Dependent Claims Are Not Anticipated for Additional Reasons

Claims 9 and 19 require that icons contained in the supervisor page are “moveable to reassign a corresponding call to another agent.” *Ginsberg* nowhere discloses moveable icons for reassigning agents.

Claims 10 and 20 require that the telemarketing system information sent to the supervisor client comprises both historical and real-time information. The Ginsberg patent discloses, at most, sending real-time information regarding customers and their queue status (col. 6, lines 29). Ginsberg does not disclose sending historical information to the manager.

For those additional reasons, Applicant asserts that dependent claims 9, 10, 19 and 20 are patentable.

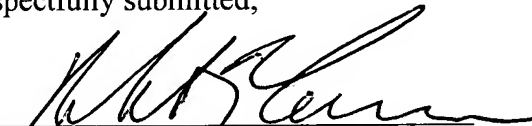
### Conclusion

Applicant therefore respectfully asserts that all the claims in the case are now in condition for allowance, and earnestly request that the Examiner issue a Notice of Allowance.

Should the Examiner have any questions regarding the present case, the Examiner should not hesitate in contacting the undersigned at the number provided below.

Respectfully submitted,

By



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